

1 SAMUEL J. STEINER
2 U.S. Bankruptcy Judge
3 United States Courthouse
4 700 Stewart Street
5 Seattle, WA 98101-1271

6 (206) 370-5300

7 IN THE UNITED STATES BANKRUPTCY COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

9 In re) NO. 05-23422
10 CHRISTOPHER D. PROCHAZKA,)
11 Debtor.) ADVERSARY NO. A07-01055
12 CHRISTOPHER D. PROCHAZKA,)
13 vs. Plaintiff,) FINDINGS OF FACT AND
14 CFS SUNTECH SERVICING LLC, CGO) CONCLUSIONS OF LAW
15 EDUCATION LOAN FUNDING,)
16 Defendants.)

17 This matter having come on regularly for hearing before
18 the undersigned Bankruptcy Judge of the above entitled Court on May
19 18, 2007; the plaintiff/debtor appearing through his attorney, Marc
20 S. Steiner, and the defendant, Educational Credit Management
21 Corporation (ECMC) being represented by Michaelann Ehrenberg of
22 counsel; and the Court having considered the briefs and having
23 heard oral argument, now makes the following
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1 FINDINGS OF FACT

2 1. The debtor, Prochazka, filed bankruptcy in this Court on
3 September 29, 2005, under Cause Number 05-23422-SJS, and received
4 his discharge on January 11, 2006.

5 2. On February 6, 2006 (post filing and after discharge)
6 Prochazka consolidated his student loan debt under the William D.
7 Ford Program, thereby incurring an entirely new student loan with a
8 difference lender and with new payment terms.

9 3. Prochazka consolidated his student loan debt a second time
10 on March 20, 2006 (again post petition and post discharge) with
11 another lender, GCO Educational Loan Funding Corporation and with
12 entirely new payment terms.

13 4. Prochazka filed this adversary proceeding on February 21,
14 2007, seeking to discharge his student loan debts.

15 Based on the foregoing Findings of Fact, the Court now makes
16 and enters its

17 CONCLUSIONS OF LAW

18 1. Educational Credit Management Corporation should be
19 substituted for CFS Suntech Servicing LLC, and CGO Education Loan
20 Funding in there proceedings.

21 2. Pursuant to Educational Credit Management v Betty A.
22 McBurney, 357 B.R. 536 (B.A.P. 9th Cir. 2006), Prochazka's pre-
23 petition student loan debt was extinguished by the disbursement of
24 the post petition loan under the Ford Program.
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3. The new debt created by the consolidation constitutes a post petition debt which is per se nondischargeable in bankruptcy.

4. ECMC's motion for summary judgment dismissing the complaint in this adversary cause with prejudice should be granted.

5. Prochazka's Motions for Consolidation, Summary Judgment and Reconsideration should be denied.

DATED: June 12, 2007

Samuel J. Stearns

UNITED STATES BANKRUPTCY JUDGE